

## Article - Education

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§8-412.1.

(a) When a child with a disability reaches the age of 18 years, all rights accorded to parents under the federal Individuals with Disabilities Education Act shall transfer to the child if the child has not been adjudged incompetent under State law and if there is documentation that:

(1) The parents are unavailable or unknown as defined in § 8-412 of this subtitle, the child would be eligible for a parent surrogate, and the child requests that the parental rights be transferred to the child;

(2) The parents have not participated in the special education decision making process for the child after repeated attempts by the local school system to involve the parents over the previous year as described in COMAR 13A.05.01.07C(7);

(3) The parents have affirmatively rejected participation in the special education decision making process;

(4) The parents cannot participate in the special education decision making process due to prolonged hospitalization, institutionalization, or serious illness or infirmity of one or both of the parents and the parents have consented to the transfer of rights to the child;

(5) The parents cannot participate in the special education decision making process due to extraordinary circumstances beyond the control of the parents and the parents have consented to the transfer of rights to the child; or

(6) The child is living outside of the parents' home and is not in the care or custody of another public agency as defined in § 8-412 of this subtitle.

(b) A child with disabilities who reaches the age of 18 years and is living at home with the child's parents and whose parents do not consent to the transfer of rights to the child may file for due process in accordance with § 8-413 of this subtitle to determine whether the rights should be transferred to the child.

(c) If a child with disabilities who has reached the age of 18 years has been represented by a parent surrogate as defined in § 8-412 of this subtitle, any notice required by the federal Individuals with Disabilities Education Act shall be provided to both the child and to the parent surrogate and all other rights accorded to the

parent surrogate under that Act shall transfer to the child if the child has not been adjudged incompetent under State law and the child requests that the rights transfer to the child.

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